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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,346	10/19/2000	Giles Roger Frazier	AUS9-2000-0632-US1	6625
35525	7590	09/07/2004	EXAMINER	
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380				EDELMAN, BRADLEY E
		ART UNIT		PAPER NUMBER
		2153		

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

(JH/3)

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/692,346	FRAZIER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Bradley Edelman	2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 June 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-28 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 October 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/5/04, 6/23/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on June 23, 2004. Claims 1-28 are presented for further examination. Because the new grounds for rejection below are necessitated by Applicant's amendment, this Office action is final.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Fairchild et al. (U.S. Patent No. 6,343,320, "Fairchild").

In considering claim 1, Fairchild discloses a method in a node within a network computing system for selecting a master subnet manager, the method comprising:

Sending requests from a first node to the network computing system to discover other nodes within the computing system (col. 13, lines 40-42, wherein each NPD sends a beacon to all other NPDs on the same subnet), wherein the first node has a first subnet manager having a first priority (col. 11, lines 56-59; col. 13, lines 12-19; col. 14, lines 20-22, wherein each subnet has a "master" node, and each node has a subnet

manager ("monitor module" and "beacon module"), such that each node and its associated manager have a priority value that is included in the TYPE field of beacon messages);

Receiving a response to one of the requests from a second node within the network computing system, wherein the second node within the network computing contains a second subnet manager having a second priority (again, see col. 11, lines 56-59; col. 13, lines 12-19; col. 14, lines 20-22; see also, col. 14, lines 60-65, describing that each NPD responds to a beacon message);

Comparing the second priority to the first priority (col. 26, lines 34-40, describing comparing each of the priority values stored in the consolidated state table);

Shifting the first subnet manager to a standby mode if the second priority is higher than the first priority (col. 27, lines 3-5, "the old master relinquishes master duties after recognizing the new NPD 302 as the ASC group master"); and

Shifting the first subnet manager to a master mode if no response is received from any node containing a subnet manager having a priority higher than the first priority and if discovery of the other nodes within the network computing system is complete (col. 14, lines 60-65, describing discovering each other node in the group; col. 26, lines 40-42, "the NPD 302 in any given group that has the lowest INTERVAL VALUE, that is active and that has determined that it can serve as master, is the ASC group master for that group").

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In considering claim 2, Fairchild further discloses that the first node is associated with a first unique value and the second node is associated with a second unique value and comparing the first unique value to the second unique value if the first priority is equal to the second priority (col. 26, lines 42-50, "in the event of a tie..."), and shifting the first subnet manager to a standby mode if the first unique value identity is less than the second unique value (col. 26, lines 42-50; col. 27, lines 3-5, wherein the old master relinquishes its control if it loses the tie-breaker).

In considering claim 3, Fairchild further discloses that the unique values are globally unique identifiers ("IP addresses").

In considering claim 4, Fairchild further discloses that the network computing system is a system area network (col. 9, lines 61-67, wherein the network 300 is the "system area network").

In considering claim 5, Fairchild further discloses that the requests are system management packets ("packets," col. 13, lines 40-41).

In considering claim 6, Fairchild further discloses polling a master subnet manager in the network computing system in response to the first subnet manager shifting to a standby mode (col. 14, lines 24-40, wherein the master is polled after the NPD experiences a state change from a normal to a degraded state).

In considering claim 7, Fairchild further discloses that the polling occurs periodically (i.e. every "60 seconds").

In considering claim 8, Fairchild further discloses reinitiating the steps of sending, receiving, comparing, shifting to a standby mode, and shifting to a master mode if a response to polling of the master subnet manager is absent (col. 15, lines 24-34, 35-65, wherein if the NPD 302 is considered off line, an NPD 302 performs initialization, which will re-start the discovery process).

In considering claim 9, Fairchild further discloses that the response to the polling of the master subnet manager is considered absent if a response is not received from the master subnet manager within a selected period of time and commensurate to the poll operation not completing after the poll operation has been retried a predetermined number of times (col. 23-34, "if several intervals pass without reception of a packet from a particular NPD 302 in a group, then the NPD 302 is considered Off Line or inactive").

In considering claim 10, Fairchild further discloses that the steps of sending, receiving, comparing, and shifting are initiated prior to initialization of an operating system for the first node (col. 26, line 67 – col. 27, line 3, "if a new NPD 302 with capabilities to be master is powered up in a given group and has the lowest INTERVAL value, it will eventually take over as new master").

In considering claim 11, Fairchild further discloses shifting the first manager from master mode to standby mode in response to receiving a message to handover mastership of the network computing system (col. 27, lines 3-5, "the old master relinquishes master duties after recognizing the new NPD 302 as the ASC group master").

In considering claim 12, Fairchild discloses shifting the first subnet manager to a non-active mode from the standby mode in response to receiving a message to shift to non-active mode from a master subnet manager (col. 27, lines 7-11, wherein the manager of the node shifts from standby to powered-down mode).

In considering claim 13, claim 13 presents a data processing system for performing the same method described in claim 1, and is thus rejected for the same reasons.

In considering claim 14, claim 14 presents a data processing system for performing the same method described in claims 2 and 3, and is thus rejected for the same reasons.

In considering claim 15, claim 15 presents a network computing system for performing the same method described in claim 1, and is thus rejected for the same reasons.

In considering claims 16-27, claims 16-27 present a network computing system for performing the same method described in claims 1-12, and are thus rejected for the same reasons.

In considering claim 28, claim 28 presents a computer program product for performing the same method as claim 1, and is thus rejected for the same reasons.

#### ***Response to Arguments***

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley Edelman whose telephone number is 703-306-3041. The examiner can normally be reached from 9 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BE  
August 30, 2004



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